FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Cri. Application No. 4798 of 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. Court's or Judge's orders

Mr. S.S. Khemka – petitioner in person
Mr. V. B. Konde Deshmukh APP for respondents

CORAM: B.H. MARLAPALLE
&
SMT. R.S. DALVI JJ.

DATE: 14/2/2006

P.C.:

1. Petitioner party in person is present. He had addressed a letter to this court stating that he was detained in illegal custody from 15.7.05 to 20.7.2005 on account of the orders passed by the learned Special Metropolitan Magistrate. This court by order dated 10/10/2005 called for the report from the learned Special Metropolitan Magistrate 48th Court at Andheri and by further order dated 22/12/2005 all the records in relation to the

case of the petitioner were called for.

2. The learned Special Metropolitan Magistrate has forwarded his report dated 21.11.2005 and on perusal of the same it is clear that pursuant to the order passed by this court on 29.6.05 in Criminal application no. 3425 of 2005 the petitioner submitted an application for withdrawal of the cash in all the five cases in which he was granted bail.

3. The learned Special Metropolitan Magistrate following the order passed by this court on 29.6.05 allowed his applications for return of the cash deposit by imposing a condition that the petitioner shall furnish a local surety in the sum of Rs.5000/- in each case. This order was passed on 14.7.05. However, as per the report submitted by the learned Special Metropolitan Magistrate, the petitioner failed to submit the local surety bond. On 15.7.05 when he appeared in some other case before the

same court he was directed to be taken in custody for violating the Court's order. The petitioner in this application disputed the report submitted by the learned Special Metropolitan Magistrate.

4. We therefore verified from the record and it is clear that the surety i.e. Mrs. Premshil Harinarayan Gupta had not executed the surety bond on 14.7.05 and she applied to the learned Special Metropolitan Magistrate on 18.7.05 for P.R. Bond of surety. Similar application was made by the accused on 14.7.05. On the face of this, the report submitted by the learned Special Metropolitan Magistrate cannot be disbelieved.

5. For the above stated reasons the petitioner has to blame himself for the plight he went through and he could have very well avoided the same. No fault could be found with the action taken by the learned Special Metropolitan Magistrate.

6. The petitioner invited our attention to another prayer for transfer of his case to some other court. We do not find any reason to entertain such a prayer in this application and in case there are any reasons henceforth, the petitioner can always approach the Additional Chief Metropolitan Magistrate with such an application.

The application is hereby rejected.

Certified copy expedited.

(SMT. R.S. DALVI J.) (B.H. MARLAPALLE J.)